

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

**WILLIAM LOCKWOOD,**

\*

**Plaintiff**

\*

**v.**

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**Civil Action No. WMN-02-2068**

**PACIFIC USA, LTD., et al.,**

\*

**Defendants**

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\* \* \* \* \*

**DEFENDANTS' MOTION FOR RECONSIDERATION OF THE  
DENIAL OF THEIR MOTION FOR SUMMARY JUDGMENT TO DISMISS  
PLAINTIFF'S CLAIM FOR CERTAIN DAMAGES**

Defendants, Pacific Cycle, LLC and Toys "R" Us Delaware, Inc., hereby seek reconsideration and entry of an order granting their Motion for Summary Judgment to Dismiss Plaintiff's Claim for Certain Damages. In support of this motion, defendants state as follows.

1. Defendants previously filed a Motion for Summary Judgment to Dismiss Plaintiff's Claim for Certain Damages. (Paper No. 41). Former Third-Party Defendants, SR Suntour, Inc. and SR Suntour, USA, filed a Motion for Summary Judgment on Plaintiff's Claim for Medical Expenses and Other Related Expenses Incurred when Plaintiff Was a Minor. (Paper No. 62).<sup>1</sup> In a Memorandum and Order dated July 24, 2003 ("Memorandum"), this Court denied these motions, among others. (Paper No. 91.)

2. In denying the motions for summary judgment, the Court determined that there "was a triable issue of fact" as to whether plaintiff's mother, Dianne Saunders, has the ability to

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<sup>1</sup> Defendants hereby incorporate herein by reference Paper No. 62 in its entirety.  
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pay the medical expenses that she is legally obligated to pay as the mother of her plaintiff child who was a minor at the time he was injured and incurred medical and other expenses. In denying the motions, the Court considered the Affidavit of Ms. Saunders, noting that plaintiff's "mother claims that she has limited financial resources, has no substantial savings account, does not have the financial ability to pay these costs (Saunders Aff. at ¶ 8), and that as a result, Plaintiff is personally responsible for these expenses." Memorandum at 7-8.

3. Subsequent to consideration by the Court of the Saunders Affidavit cited in the Memorandum, Ms. Saunders submitted an additional affidavit in connection with the August 19, 2003 mediation conducted in this case. In this updated Affidavit, Ms. Saunders states under oath that as of August 19, 2003 she earned "\$118,424 for the first 33 weeks of the year, or \$3,588.61 per week." See Affidavit of Dianne Saunders attached as Exhibit A at ¶ 9. Based on this information, Ms. Saunders presently has an annual income of \$186,607.72. It is beyond dispute based on this level of income that Ms. Saunders has the ability to fulfill her legal obligation to pay all of the outstanding bills for medical treatment and other necessities incurred by plaintiff when he was a minor. As a matter of law, the Court should hold that Ms. Saunders can meet her legal obligation to pay these medical bills.

4. Accordingly, this Court should reconsider its denial of the defendants' motion, grant the motion, and enter the attached proposed order.

Respectfully submitted,

/s/ *Edward J. Lopata*

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Attorneys for Defendants

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on this 16th day of October, 2003, a copy of the foregoing, Defendants' Motion for Reconsideration of the Denial of Their Motion for Summary Judgment to Dismiss Plaintiff's Claim for Certain Damages was electronically mailed to:

Paul D. Bekman, Esquire  
Michael Patrick Smith, Esquire  
Israelson, Salsbury, Clements & Bekman, LLC  
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*Attorneys for Plaintiff*

*/s/ Edward J. Lopata*

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Attorneys for Defendants

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**ORDER**

Upon consideration of Defendants' Motion for Reconsideration of the Denial of Their Motion for Summary Judgment to Dismiss Plaintiff's Claim for Certain-Damages, Plaintiff's opposition thereto, Defendants' Motion for Summary Judgment to Dismiss Plaintiffs' Claim for Certain Damages, and Plaintiff's opposition thereto, it is hereby this \_\_\_\_\_ day of \_\_\_\_\_, 2003,

ORDERED that the present Motion be, and hereby is, granted and Plaintiff be, and hereby is, precluded from recovering any necessities, including medical bills and expenses, that were incurred prior to his 18<sup>th</sup> birthday.

\_\_\_\_\_  
Honorable William M. Nickerson

cc:    Paul D. Bekman, Esquire  
       Michael Smith, Esquire  
       Edward J. Lopata, Esquire